REMARKS / ARGUMENTS

The action by the Examiner in this application, together with the references cited by him, have been given careful consideration. Following such consideration, all pending claims remain unaltered.

Claims 1-13 and claims 16-23 stand rejected under the '115 patent to Malchesky in view of the '029 patent to Bassett et al. With respect to the '115 patent to Malchesky, the Examiner takes the position that "when the tray is placed in the decontamination chamber (figure 2:10 and lid B in figure 1), the valves move into an open position for allowing liquid sterilant to enter and exit the tray and when the tray is removed from the decontamination chamber the valves move into a closing position for sealing the container. (col. 7, lines 5-6, lines 26-30) ..." Applicant respectfully disagrees. The '115 patent to Malchesky does not show valves that move during the insertion of the tray into a decontamination chamber. The '115 patent to Malchesky discloses a structure wherein the valves are in a closed position until the antimicrobial solution is pressurized sufficiently to cause the valves to open. The explicit teaching of the '115 patent indicates that the "check valves 74" of the disclosed structure are pressured actuated. In this respect, column 7, lines 26-30 (cited by the Examiner) indicate that:

> "check valves 74 permit the anti-microbial solution under pressure to enter and drain, but close *when the pressure is removed.*" (Emphasis added)

Such text clearly indicates that the check valves are pressure operated. In addition, the Examiner also states on page 4 and 5 of the present Office Action that the valves "close and open based on pressure differentials (col. 7, lines 25-28)" (See Office Action page 4 and 5). Furthermore, there is nothing in the '115 patent that teaches an element disposed within the

decontamination chamber that is operable to move the valves upon insertion or removal of the tray into the decontamination chamber. The prior statements, together with the fact that there is no teaching or suggestion of an "actuator" in the '115 patent, shows that the '115 patent does not teach valve assemblies that move into open and closed positions upon insertion and removal of the tray into a decontamination chamber.

Still further in this respect, the Examiner acknowledges that "Malchesky does not specifically teach using a flexible valve element being integrally formed as a one-piece and having a movable part and a fixed part in the container that is moved by a mechanical actuator in the decontamination chamber..." (See Office Action page 3).

It is respectfully submitted that the '029 patent to Bassett et al. does not teach a one-piece valve element having a first portion and a second portion that are connected by radially extending arms. With respect to this latter limitation, the Examiner states:

> "Bassett's flexible valve element being formed as a one-piece (figure 1:9 and 5) and having a movable part (figure 1:9) and a fixed part (figure 1:5) in the container (figure 1:1)."

Applicant fails to see where movable part 9 is connected to fixed part 5 in the '029 patent. The hatch marks in Figures 1 and 2 clearly show that movable part 9 is completely separate from fixed part 5. Applicant respectfully submits that there is no suggestion in the Bassett et al. reference to connect the movable part 9 to the fixed part 5. Moreover, it is not shown how such a structure is operable.

Still further, it is respectfully submitted that there is no teaching or suggestion to one skilled in the art to use a "flushing valve" from the '029 Bassett et al. patent in the microbial-decontaminating system of the '115 patent to Malchesky. Since the '115 patent fails to teach,

suggest or show the use of an "actuator" to move a valve element, it is only with the benefit of hindsight that one would look to the flushing valve of the Bassett et al. reference for use in the decontamination system of the '115 patent. Still further, because the flushing valve of the '029 patent does not teach, suggest or show the one-piece flexible valve element having radially extending arms, it is respectfully submitted that the Examiner's combination does not teach, suggest or show the claims as presently set forth.

For the foregoing reasons, it is respectfully requested that the Examiner reconsider the claims in their present form, and allow the application.

If there are any fees necessitated by the foregoing communication, please charge such fees to our Deposit Account No. 50-0537, referencing our Docket No. ST8725US.

Respectfully submitted,

Mark Kusner, Reg. No. 31,115

Date: **May 8, 2007**

KUSNER & JAFFE
Highland Place – Suite 310
6151 Wilson Mills Road
Highland Heights, Ohio 44143
(440) 684-1090 (phone)
(440) 684-1095 (fax)

MK/CJ/lc